

AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include changes to Figs. 1 and 2 and the addition of Fig. 3. These sheets, which include Figs. 1-2, replace the original sheets including Figs. 1-2.

In Fig. 1, labels have been added to various features of the figure as well as additional features representing those recited in claim 2 but not previously represented in the figures.

In Fig. 2, labels have also been added as well as additional features representing those recited in claims 2-5 but not previously represented in the figures.

Also, Fig. 3 is added to represent the remaining features recited in the claims 3-5 that may not be illustrated in Figs. 1 and 2. Fig. 3 is added so as to satisfy the requirements under 37 CFR 1.83(a).

The additional features added to Figs. 1-2 and the addition of Fig. 3 are merely to satisfy the requirements under 37 CFR. Applicant respectfully submits that no new matter is added by inclusion of new features in Figs. 1 and 2 and the addition of Fig. 3. Each of the features represented in these figures were previously represented within the original specification and/or the original claims. 1.83(a).

Attachment: Replacement Sheet (2)
New Fig. 3 (1)

REMARKS

Claims 1-13 are pending in the present application. Claims 1 and 6 and claims 11-13 have been added to more particularly define what Applicant regards as his invention. Also, the specification is amended and the drawings corrected. Claims 1 and 12 are independent.

The Specification

The specification has been amended to correct grammatical errors and to further clarify features of the claims as illustrated in the drawings. Many of the corrections to the specification were necessitated by the following objection to the Drawings and the correction of the drawings in this Response. Applicant respectfully submits that no new matter is added by the correction to the specification.

Drawing Objection

The drawings are objected to under 37 C.F.R. 1.83(a) as not showing every feature of the invention specified in the claims. This objection, insofar as it pertains to the presently pending drawings, is respectfully traversed.

The Office Action ambiguously refers to "the limitations of claims 2-7 and 9" as being insufficiently illustrated in the drawings. This allegation is insufficient to make a proper drawing

objection. As specified in MPEP 608.02(d), Examiner note 1, the Office Action must "identify the structural details not shown in the drawings." By merely referring to "the limitations of claims 2-7 and 9" the Office Action has failed to particularly identify which structural details in these claims are not shown in the drawings. Therefore, this drawing objection is insufficient and should be reconsidered and withdrawn.

Nevertheless, to advance prosecution of this application and because the drawing objections will not be held abeyance, Applicant will attempt defining what the Examiner finds lacking in the drawings as to the identified claims.

As to claim 2, the structural feature of means for selecting and said means for automatically determining is indeed illustrated as the manipulating unit 18 shown in Figs. 1 and 2. This manipulating unit may include a mouse 18b and/or keyboard 18a and permits a user to perform these functions.

In corrected FIG. 2, switching means 55 is added between USM block in processing subsection 54. The output image memory 56, operation setting section 78, and manipulating unit 18 represent "means for selecting either one of the execution and non-execution of the processing as a mode" of Claims 2. The combination of magnetic head 30a of carrier 30 added to the corrected FIG. 1 and switching means 55 and operation setting section 78 added to the corrected FIG. 2 represents "means for

automatically determining from photographing information" of Claim 2 and "means for determining either one of the execution and the non-execution of the processing from photographing information" of Claim 4.

In regards to claims 3 and 5, there is no structural element claimed therein. Instead, claims 3 and 5 further specifies the photographing information. This photographing information, however, is shown in new Fig. 3 Applicant respectfully submits that no new matter is added by inclusion of new features in Figs. 1 and 2 and the addition of Fig. 3. Each of the features represented in these figures were previously represented within the original specification and/or the original claims.

With respect to claim 6, the red-eye correction means is indeed shown in Fig. 2. Applicant is indeed surprised the Examiner could not find the red-eye correction means because it is a central feature of the present invention. It is clearly shown in Fig. 2 as the red-eye correction sub-section 60 which includes image taking-out unit 64, red-eye correction unit 66, and image replacement unit 68 which respectively correspond to the claimed image data taking out means, color transforming means, and image data replacing means.

With respect to claim 7, the structural element recited therein is the display switching means which is clearly shown in Fig. 2 as switching means 62.

With respect to claim 9, Fig. 1 illustrates the scanner 12 that photoelectrically reads the input image data at the high resolution and the low resolution. Thus, there is clear corresponding structure in the drawings supporting claim 9.

In view of the new drawing sheets provided herein and the arguments above, Applicant respectfully requests reconsideration and withdrawal of the drawing objection under 37 C.F.R. § 1.83(a).

The drawings are also objected to because Fig. 2 does not include text labels for some of the features shown therein. Replacement Fig. 2 is supplied herewith which includes the required text labels for all elements therein. In view of this replacement drawing sheet and these arguments, Applicant respectfully requests reconsideration and withdrawal of this drawing objection.

Art Rejection

Claims 1 and 7-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stokes (USP 6,295,388) in view of Leone (USP 5,596,346). Claims 2-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stokes, Leone, and further in view of Yamanouchi (USP 5,420,699). Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Stokes, Leone, Yamanouchi, and

further in view of DeLuca (USP 6,407,777). These rejections, insofar as they pertain to the presently pending claims are respectfully traversed.

Stokes discloses a method of scanning film which first performs a low resolution preview scan 40 and then proceeds to conduct a high resolution scan of a cropped portion 42 of the image. Before conducting the high resolution scan, however, a scanning operator selects a detail area 44 which is to be viewed in high resolution during a subsequent high resolution scan. This permits an operator to terminate the high resolution scan if the quality of the image is not satisfactory. In other words, the detail area 44 is utilized by Stokes solely to determine whether the scan quality is acceptable such that the high resolution scan may be terminated before it is completed. This provides an efficient way to scan film particularly because the high resolution scan takes a relatively long time to complete.

As an aside Stokes mentions that editing programs such as Adobe's Photoshop™ may be utilized to modify various characteristics in the digital image 30. Of course, any such digital image may be modified by conventional editing programs such as Photoshop™. Thus, Stokes is merely saying that highly conventional editing programs may be utilized to edit images in the normal fashion.

The Examiner latches on to this highly conventional image modification disclosure as somehow providing motivation to combine Stokes with Leone.

Even if such a motivation was somehow proper in the past, which it clearly is not, the claims have been amended to further distinguish from the combination of Stokes and Leone and to destroy any potential that Stokes teaching of standard image editing might have as a way to properly combine Stokes and Leone.

More specifically, the combination of Stokes and Leone fails to disclose or suggest designation means for designating a region to be corrected including an eye, the designating means designating the region to be corrected within the image at low resolution. Before the Examiner jumps to the conclusion that Stokes' detail area 44 meets this feature, Applicant strongly emphasizes that this amended designation means must be read in conjunction with the amended red-eye correction means.

Specifically, the red-eye correction means has been amended to recite that the correction of the red-eye effect is in the image data at high resolution and that this red-eye correction subjects the eye in the region of the output image data at high resolution that corresponds to the region designated by the designation means. In other words, the region designated to be corrected is with respect to the low resolution image and the red-eye correction is with respect to the high resolution image.

More specifically, the region in the high resolution image that corresponds to the region designated in the low resolution image is subjected to red-eye correction. These features, particularly when read in combination as the Examiner must, are clearly absent from the combination of Stokes and Leone.

Applicant has indeed focused on the Stokes reference but this does not amount to attacking the references individually as the Examiner has previously alleged in rebuttal arguments. Because the Examiner clearly relies upon Stokes to teach the claimed designation means Stokes is necessarily the reference attacked when arguing that the rejection is insufficient as to that feature. Applicant will now turn his attention to Leone which is relied upon to teach the red-eye correction features of the claims.

Leone is clearly relied upon to teach the red-eye correction features of the invention but fails to disclose or suggest red-eye correction, particularly as recited in amended independent claim 1. Leone operates on an entirely different principle for red-eye correction. As discussed in column 3, lines 26-60, the user can manipulate a viewpoint onto a source image by panning and zooming the source image. The purpose of this panning and zooming is to enlarge the eye portion of an image such that fills the screen as shown in Fig. 1D. This permits a user to determine if a red-eye condition exists in the eye (see column 4, lines 23-32). When viewing the highly enlarged image of the eye it is readily apparent

to the user whether red-eye exists. If so, the user can activate a conventional process for correcting the red-eye artifact by touching the apply button 18. This is a very cumbersome and time consuming process which requires the user to manually pan and zoom to each eye in the image to manually determine if red-eye exists. A photograph of a large crowd would require the user to exhaustively pan and zoom onto each eye of each subject in the crowd and manually determine if red-eye exists and then activate the conventional red-eye correction process as to each eye individually. This is slow, time consuming and highly manual process that is completely inappropriate for high-speed film processing which is the subject of the present invention.

The present invention permits high-speed processing of film or other images representative of persons or animals by utilizing a dual resolution display. The pre-scan or low resolution image can be quickly reviewed by the user. Any area that has a potential of having red-eye may be quickly designated by the user by quickly reviewing the low resolution image. The designated regions in the low resolution image have corresponding regions in the high resolution image. It is the high resolution image that is subjected to red-eye correction. The correspondence between the low and high resolution images is another feature completely absent from both Stokes and Leone even when taken in combination.

Stokes suggestion of applying standard editing programs such as Adobe's Photoshop™ and Stokes highly manual pan/zoom process are completely insufficient to disclose or suggest the combination of designation means and red-eye correction means that is now recited in amended claim 1. In Stokes, the user may simply apply a standard editing program such as Adobe's Photoshop™ but there is no switching between low and high resolution images and particularly no designation of a region to be corrected in a low resolution image which is followed by any type of correction (let alone red-eye correction) in a high resolution image such that the region in the high resolution image corresponding to the region designated in the low resolution is corrected.

Moreover, Leone's pan/zoom process is highly manual he merely utilizes sub-sampling or super-sampling of a single source image in order to permit the view port on the source image to pan and zoom as the user desires. As such, there is no designation of a region to be corrected in a low resolution image followed by a red-eye correction that corrects the red-eye effect in the image data of high resolution by subjecting the eye in a region of the output image data at high resolution that corresponds to the region designated by the designation means in the low resolution image.

Even further, reading Stokes and Leone together as a combination (which Applicant does not admit as to the propriety thereof), this combination still fails to disclose or suggest the

combined designation means and red-eye correction means, particularly as recited in amended claim 1. At best, the combination of Stokes and Leone would provide a system in which the high resolution scan may be terminated before it is finished and that once the high resolution scan has been completed, then the high resolution image may serve as the source image such that a pan/zoom process may be utilized by the user to manually identify where red-eye is present such that a standard red-eye correction process may be applied thereto on the highly magnified eye image. This combination would still result in a highly inefficient and quite manual process that does not achieve any of the advantages of the present invention.

For all of the above reasons, taken alone or in combination, Applicant respectfully requests reconsideration and withdrawal of the § 103 Leone-Stokes rejection.

As to Yamanouchi, this patent fails to remedy any of the noted deficiencies in the base combination of Stokes and Leone. Indeed, Yamanouchi is merely applied to teach the features of dependent claims 2-5 and is not relied upon in any fashion to teach or suggest the features of independent claim 1. Although Applicant disagrees with many of the statements made in regards to Yamanouchi in the Office Action, Applicant wishes to focus the patentability of the present invention upon the independent claims. As such, Yamanouchi, even when taken in combination with Leone and Stokes,

fails to particularly disclose or suggest the claimed designation means and red-eye correction means, particularly as amended. The arguments above are hereby incorporated by reference and applied with equal force to the combination of Stokes, Leone, and Yamanouchi.

For all of the above reasons, taken alone or in combination, Applicant respectfully requests reconsideration and withdrawal of the § 103 Stokes-Leone-Yamanouchi rejection.

Still further, DeLuca also fails to remedy any of the noted deficiencies in the base combination of Stokes, Leone, and Yamanouchi. Indeed, DeLuca is merely applied to teach the features of dependent claim 6 and is not relied upon in any fashion to teach the features of independent claim 1. Again, Applicant wishes to focus the patentability of the present invention upon the independent claims. While Applicant disagrees with the statements made in regards to DeLuca and also disagree that the combination of these patents tenable or proper, patentability is focused upon the independent claims and these arguments. Applicant does reserve the right to challenge the secondary teachings should the Examiner continue rejecting this application.

For these reasons, taken alone or in combination, Applicant respectfully requests reconsideration and withdrawal of the § 103 Stokes-Leone-Yamanouchi-DeLuca rejection.

Counter Rebuttal to Examiner's Arguments

The last Office Action mailed July 14, 2004 includes an extensive section that attempts to rebut Applicant's previous arguments. Many of these rebuttal arguments are clearly wrong, improper, or otherwise based on a false impression of U.S. case law.

For example, the Examiner repeatedly states that Applicant's arguments are somehow "moot." However, the term "moot" refers to a controversy that no longer exists or is otherwise not being contested. This is certainly not the case here. While the Examiner may not be convinced of Applicant's arguments they are not moot. If the Examiner were to withdraw the rejections as he should then the arguments would be moot.

The Examiner also repeatedly alleges that Applicant's last response argued the references individually when the rejection was based on a combination of references. While this is a general principle in the law, the Office Action also clearly relied upon certain references to teach certain features. Thus, it is certainly appropriate to attack the individual reference relied upon for a certain feature when making a case against an Office Action. The Examiner seems to confuse these two principles and uses the *In re Keller* and *In re Merck & Company* cases cited on page 2 of the Office Action as a shield behind which to hide rather than substantively attacking Applicant's arguments.

Rather than belabor the previous arguments and the Examiner's attempt at rebuttal thereto, Applicant wishes to focus the Examiner's attention on the amended claim features and clear distinctions argued above. To the extent that the Examiner's rebuttal arguments contradict or contravene the arguments made herein, Applicant disagrees therewith.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Michael R. Cammarata (Reg. No. 39,491) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART KOLASCH & BIRCH, LLP

By 

Michael R. Cammarata, #39,491

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

MRC/kpc

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